

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA

IN RE: CHARLOTTE WHITE * CIVIL ACTION
 * NO: 10-185
 * SECTION: "D"(2)

ORDER AND REASONS

Before the court is the **Motion to Dismiss for Lack of Subject Matter Jurisdiction** filed by the United States of America. (Doc. No. 3). **No memorandum in opposition was filed.** The motion, set for hearing on Wednesday, March 10, 2010, is before the court on the United States' brief, without oral argument.¹ Now, having considered the memorandum of the Assistant United States Attorney, the record, and the applicable law, the court finds that the motion should be granted.

Charlotte White filed a "Petition for Leave of Court to Perpetuate Testimony" in Civil District Court for the Parish of Orleans, State of Louisiana. After Constituent Service

¹ This Motion to Dismiss was initially set for hearing on February 24, 2010, but at the request of Plaintiff, the court continued the hearing for two weeks. (Doc. No. 7). Despite this continuance, Plaintiff still did not file an opposition.

representative Sherae M. Hunter, Office of United States Senator Mary L. Landrieu, was served with a citation from Civil District Court ordering her to respond to White's suit to perpetuate testimony, the United States removed the matter to this court under 28 U.S.C. §1442(a)(1)(the federal-officer removal provision).² However, this court lacks subject matter jurisdiction because the United States has not waived its sovereign immunity and the Senate has not authorized its employee to provide White with her desired discovery. Accordingly;

IT IS ORDERED that the United States' **Motion to Dismiss for Lack of Subject Matter Jurisdiction** be and is hereby **GRANTED**.

New Orleans, Louisiana, this **10th** day of **March, 2010**.


A.J. MCNAMARA
UNITED STATES DISTRICT JUDGE

² White also requested an order to perpetuate the sworn testimony of Constituent Service representative Wes Kungel, but the United States represents to this court that at the time of removal, Kungel was not served with state-court process. (United States' Memo., Doc. No. 3-1 at p. 3, n. 2.).